

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, and Iowa Code section 105.4, the Department of Public Health and the Plumbing and Mechanical Systems Board hereby give Notice of Intended Action to amend Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” Iowa Administrative Code.

Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 17 and 18 are necessary to implement 2013 Iowa Acts, Senate File 427, which became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File.

The following items have the following additional purposes:

Item 2 modifies the definition of “hydronic” to reflect the most current definition contained in Iowa Code section 105.2(8).

Item 12 rescinds subrule 29.4(3), which states that “An applicant shall have no record of felony conviction relating to the profession as determined by the board.”

Item 13 specifies circumstances under which an application for licensure shall be deemed incomplete.

Item 14 removes the requirement that examinations adopted by the Board must be “nationally recognized.”

Item 15 modifies the required score for passage of examinations from 75 percent to 70 percent.

Item 16 omits the obsolete requirement that a licensee “provide evidence that the licensee continues to meet the general requirements for licensure under rule 641—29.2(105)” in order to qualify for renewal.

Any interested person may make written suggestions or comments on these amendments on or before August 27, 2013. Written materials should be directed to Cynthia Houlson, Plumbing and Mechanical Systems Board, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-6114; e-mail [cynthia.houlson@idph.iowa.gov](mailto:cynthia.houlson@idph.iowa.gov).

There will be a public hearing on August 27, 2013, from 11:30 a.m. to 1 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. This hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN from the following locations:

Public Library  
529 Pierce Street  
Sioux City

Crestwood High School  
1000 4th Avenue East  
Cresco

Public Library, Meeting Room C  
415 Commercial Street  
Waterloo

Ottumwa Regional Health Center  
1001 E. Pennsylvania  
Ottumwa

Spirit Lake High School  
2701 Hill Avenue  
Spirit Lake

Public Library Information Center  
Kelinson Room  
2950 Learning Campus Drive  
Bettendorf

Lucas State Office Building, Sixth Floor  
321 E. 12th Street  
Des Moines

Iowa Western Community College – 2  
923 E. Washington  
Clarinda

Burlington High School  
421 Terrace Drive  
Burlington

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Plumbing and Mechanical Systems Board at the above address and advise staff of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 105.2, 105.5, 105.9, 105.18, 105.19, 105.20 and 105.22 and 2013 Iowa Acts, Senate File 427.

The following amendments are proposed.

ITEM 1. Adopt the following new definition of “Sheet metal” in rule **641—29.1(105)**:

“*Sheet metal*” means heating, ventilation, air conditioning, pollution control, fume hood systems and related ducted systems or installation of equipment associated with any component of a sheet metal system. “Sheet metal” excludes refrigeration and electrical lines and all natural gas, propane, liquid propane, or other gas lines associated with any component of a sheet metal system.

ITEM 2. Amend the following definitions in rule **641—29.1(105)**:

“*Apprentice*” means any person, other than a helper, journeyperson, or master, who, as a principal occupation, is engaged in working as an employee of a plumbing, ~~HVAC, refrigeration, mechanical,~~ HVAC-refrigeration, sheet metal, or hydronic systems contractor under the supervision of either a master or a journeyperson and is progressing toward completion of an apprenticeship training program registered by the Office of Apprenticeship of the United States Department of Labor while learning and assisting in the design, installation, and repair of plumbing, HVAC, refrigeration, sheet metal, or hydronic systems, as applicable.

“*Hearth systems specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work in the installation of gas burning and solid fuel appliances that offer a decorative

view of the flames, from the connector pipe to the shutoff valve located within 3 feet of the appliance. This sublicense is further allowed to perform work in the venting systems, log lighters, gas log sets, fireplace inserts, and freestanding stoves.

*“Hydronic”* means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any heating or cooling system or appliance whose primary purpose is to provide comfort using a liquid, water, or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system. For the purposes of this definition, “primary purpose is to provide comfort” means a system or appliance in which at least 51 percent of the capacity generated by its operation, on an annual average, is dedicated to comfort heating or cooling.

*“Inactive license”* means a license that is available for a plumbing, ~~HVAC, refrigeration, mechanical,~~ HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level.

*“Journeyperson”* means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, ~~HVAC, refrigeration, mechanical,~~ HVAC-refrigeration, sheet metal, or hydronic systems, as applicable.

*“Licensee”* means a person or entity licensed to operate as a contractor or work in the plumbing, ~~HVAC, refrigeration, mechanical,~~ HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

*“Master”* means any person who works in the planning or superintending of the design, installation, or repair of plumbing, ~~mechanical,~~ HVAC, refrigeration, ~~sheet metal,~~ or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, ~~mechanical,~~ HVAC, refrigeration, ~~sheet metal,~~ or hydronic systems, and who is familiar with the laws and rules governing the same.

*“Mechanical systems”* means HVAC, refrigeration, ~~sheet metal,~~ and hydronic systems.

*“Routine maintenance”* means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, ~~mechanical,~~ HVAC, refrigeration, ~~sheet metal,~~ or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas or steam piping permanent repairs except for traps or strainers. Routine maintenance shall include emergency repairs. “Routine maintenance” does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

*“Service technician HVAC specialty license”* means a sublicense under an ~~HVAC-refrigeration or mechanical~~ license to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than 3 feet away from the appliance.

ITEM 3. Amend rule 641—29.2(105), introductory paragraph, as follows:

**641—29.2(105) Available licenses and general requirements.** Effective January 1, 2011, all licenses issued by the board will be for a three-year period, except where a shorter or longer period is required or allowed by statute. ~~All licenses issued prior to January 1, 2011, will be for a two-year period.~~ Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

ITEM 4. Amend subparagraph **29.2(2)“a”(2)** as follows:

(2) Pass the state journeyperson licensing examination in the applicable discipline. An individual who has passed both the journeyperson HVAC-refrigeration examination and the journeyperson hydronic examination separately shall be qualified to be issued a journeyperson mechanical license without having to pass the journeyperson mechanical examination.

ITEM 5. Amend paragraph **29.2(3)“b”** as follows:

b. Pass the state master licensing examination for the applicable discipline. An individual who has passed both the master HVAC-refrigeration examination and the master hydronic examination separately shall be qualified to be issued a master mechanical license without having to pass the master mechanical examination.

ITEM 6. Adopt the following **new** subparagraphs **29.2(4)“a”(1) to (3)**:

(1) Through June 30, 2017, the application shall include the applicant’s state contractor registration number.

(2) Effective July 1, 2017, the application shall include proof of workers’ compensation insurance coverage, proof of unemployment insurance compliance and, for out-of-state contractors, a bond as described in Iowa Code chapter 91C.

(3) Effective July 1, 2017, contractor licensure under Iowa Code chapter 105 as amended by 2013 Iowa Acts, Senate File 427, shall constitute registration as a contractor under Iowa Code chapter 91C.

ITEM 7. Rescind paragraph **29.2(4)“b.”**

ITEM 8. Reletter paragraphs **29.2(4)“c”** to **“g”** as **29.2(4)“b”** to **“f.”**

ITEM 9. Amend relettered paragraph **29.2(4)“e”** as follows:

e. Provide a certificate to the board that the public liability insurance policy required under paragraph 29.2(4)“~~d~~ c” and the surety bond required under paragraph 29.2(4)“~~e~~ d” shall not be canceled without the entity first giving ~~15~~ 10 days’ written notice to the board.

ITEM 10. Amend paragraphs **29.2(5)“c”** and **“d”** as follows:

c. Provide evidence that the applicant is not performing plumbing, ~~HVAC, refrigeration, mechanical, HVAC-refrigeration, sheet metal,~~ or hydronic work for which a master license is required.

d. Acknowledge awareness that the applicant is unable to perform any plumbing, ~~HVAC, refrigeration, mechanical, HVAC-refrigeration, sheet metal,~~ or hydronic work for which a master license is required so long as the applicant’s master license is held in inactive status.

ITEM 11. Amend paragraphs **29.2(6)“c”** and **“d”** as follows:

c. Provide the board with evidence that the applicant is not actively engaged working in the plumbing, ~~HVAC, refrigeration, mechanical, HVAC-refrigeration, sheet metal,~~ or hydronic disciplines for which licensure is required.

d. Acknowledge awareness that the applicant is unable to perform any plumbing, ~~HVAC, refrigeration, mechanical, HVAC-refrigeration, sheet metal,~~ or hydronic work for which licensure is required so long as the applicant’s license is held in inactive status.

ITEM 12. Rescind subrule **29.4(3)**.

ITEM 13. Adopt the following **new** paragraph **29.5(4)“c”**:

c. Documentation of criminal convictions related to the practice of the profession, which shall include a full explanation from the applicant. No application shall be considered complete unless and until the licensee responds to board requests for additional information regarding applicant criminal convictions.

ITEM 14. Amend paragraph **29.6(2)“a”** as follows:

a. The examination will be written and proctored by a ~~nationally-recognized~~ testing agency selected by the board ~~through a competitive bid process.~~

ITEM 15. Amend paragraph **29.6(2)“d”** as follows:

d. A score of ~~75~~ 70 percent or better will be considered passing.

ITEM 16. Rescind rule 641—29.7(105) and adopt the following **new** rule in lieu thereof:

**641—29.7(105) License renewal.**

**29.7(1)** The period of licensure to operate as a contractor or work as a master, journeyperson or apprentice in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or

work as a certified medical gas system installer or work in the specialty license disciplines developed by the board shall be for a period of three years, except as allowed or required in circumstances described in this subrule.

*a.* All licenses issued or renewed on or after July 1, 2014, shall expire on June 30 every three years, beginning with June 30, 2017.

*b.* All licenses that currently possess an expiration date prior to June 30, 2014, shall be granted a one-time extension of the expiration date to June 30, 2014, at no additional charge and with no additional continuing education requirements. The licensees holding the licenses described in this rule shall pay a full renewal fee upon renewal and shall be issued a license with an expiration date of June 30, 2017.

*c.* Licensees with a renewal date that falls from July 1, 2014, through June 29, 2017, shall have the license renewal fee prorated using a one-sixth deduction for each six-month period following July 1, 2014. Applicable late renewal fees shall apply during this period. Licenses renewed through June 29, 2017, shall be issued with an expiration date of June 30, 2017.

*d.* Fees for new licenses issued after the July 1 beginning of each three-year renewal cycle shall be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

*e.* A licensee whose license expires between June 30, 2014, and July 1, 2017, may voluntarily renew the license early so the license may have an expiration date of June 30, 2017. This voluntary early renewal may happen at any time on or after July 1, 2014. Notwithstanding any shortened compliance period, licensees who renew their licenses between June 30, 2014, and July 1, 2017, shall meet all of the continuing education requirements that would otherwise be required at both the July 1, 2017, renewal and the prior renewal.

**29.7(2) Renewal notification.**

*a.* Through December 31, 2016, the board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. After December 31, 2016, the board shall cease this practice.

*b.* The licensee is responsible for renewing the license prior to its expiration.

*c.* Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**29.7(3) Specific renewal requirements.**

*a.* A licensee seeking renewal shall:

(1) Meet the continuing education requirements as set forth in rule 641—30.2(105). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

*b.* Failure to renew a license within two months after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as set forth in 641—subrule 28.1(5), in addition to the license renewal fee, to allow reinstatement of the license.

(1) Prior to July 1, 2017, a licensee who allows a license to lapse for 30 days or less may reinstate and renew the license without examination upon payment of the appropriate renewal of license fee as defined in 641—subrule 28.1(3). Beginning July 1, 2017, a licensee who does not timely renew but renews the license on or before the following July 31 may reinstate and renew the license without examination upon payment of the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

(2) Prior to July 1, 2017, a licensee who allows a license to lapse for more than 30 days but less than 60 days may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3). Beginning July 1, 2017, a licensee who does not timely renew but renews a license between the following August 1 and August 31 may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

*c.* Prior to July 1, 2017, a licensee who allows a license to lapse for more than 60 days but not more than 365 days may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3). Beginning July 1, 2017, a licensee who does not timely renew but renews a license after the following August 31 and on

or before the following June 30 may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

*d.* A licensee who allows a license to lapse for more than one year may reinstate and renew the license by either of the following means:

(1) Retaking and successfully passing the applicable licensing examination and paying the appropriate renewal fee as defined in 641—subrule 28.1(3), or

(2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) and paying the appropriate renewal fee as defined in 641—subrule 28.1(3).

*e.* A licensee who reinstates and renews a lapsed license under paragraph 29.7(3) “*d*” shall not be entitled to a prorated, reduced renewal fee.

ITEM 17. Rescind rule 641—29.8(83GA, HF2531) and adopt the following **new** rule in lieu thereof:

**641—29.8(105) License reissue.** Each reissued license shall be for the same level of license held by the licensee at the time of renewal. Beginning July 1, 2014, upon renewal, licenses shall be reissued as follows:

**29.8(1)** An individual who holds a refrigeration license shall be reissued an HVAC-refrigeration license; an individual who holds an HVAC license shall be reissued either an HVAC-refrigeration license or a sheet metal license, at the election of the licensee.

**29.8(2)** An individual who holds an HVAC license and a hydronic license shall be reissued a mechanical license.

**29.8(3)** An individual who holds a refrigeration license and a hydronic license shall be reissued a mechanical license.

**29.8(4)** An individual who holds a refrigeration license or an HVAC license and has passed the board-designated hydronics test prior to June 30, 2014, shall be reissued a mechanical license.

**29.8(5)** An individual who holds only a hydronics license shall be reissued a hydronics license.

ITEM 18. Amend **641—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 105~~ sections 105.2, 105.5, 105.9, 105.18, 105.19, 105.20, 105.22 and 272C.3 ~~as amended by 2011 and 2013 Iowa Acts, House File 392 Senate File 427.~~